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S.B. CIVIL WRIT PETITION NO.4739/2007.

Krishan Lal
Vs.
State of Rajasthan & Ors.

Date of Order :: 22nd August 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Rajeev Purohit with
Mr. N.R. Budania, for the petitioner.
Mr. D.S. Rajvi, for the respondent No.3 - Caveator.

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BY THE COURT:

By way of this writ petition, the petitioner seeks to challenge his transfer order dated 31.07.2007 (Annex.1).

The petitioner is working on the post of Executive Officer in the Municipal Services. According to the petitioner, he has got just five months left in his retirement, his date of birth being 01.12.1947. The petitioner has averred that he has come to know from some reliable sources that the respondent No.2 has used his influence and exerted political pressure upon respondent No.1 for passing his transfer order; and that the transfer order has been made only in order to accommodate respondent No.3 by ignoring the facts that the petitioner has been posted on the post of Executive Officer at Municipal Board, Anupgarh only by the order dated 19.07.2006; and ordinarily an employee should not be transferred from his place of posting when he is approaching the date of

superannuation, particularly within two years of his retirement. It is contended in this writ petition that the transfer has been made though there is no administrative exigency in that regard and only at the behest of respondent No.3 and in order to accommodate him.

The respondent No.3 has entered appearance in caveat and has filed a reply, stating inter alia that in pursuance of order in question, the petitioner was relieved from his posting at Anupgarh and the answering respondent No.3 assumed the charge on 01.08.2007 (Annex.-R/3/1). The fact of the petitioner having been relieved and having handed over the charge to the respondent No.3 has not been put to contention by the petitioner even while filing a rejoinder to the reply. Only this much has been suggested that the matter has been carried out with a brisk speed and hasty action has been taken. The petitioner has further pointed out that in pursuance of the transfer order, he approached the Chairman, Municipality Kesarisinghpur where he has been transferred to; but has not been allowed to join at Kesarisinghpur; and, thus, he approached the Director, Local Self Department for allowing him to join at the transferred place (vide Annex.7).

Having heard learned counsel for the petitioner and having perused the material placed on record, this Court is clearly of opinion that this writ petition remains bereft of

substance and does not merit admission.

The submission regarding transfer in the late stage of his career when the petitioner is about to retire has a fundamental shortcoming inasmuch as, according to the showing of the petitioner himself, he was transferred by the order dated 19.07.2006 to Anupgarh. The petitioner has neither placed the order dated 19.07.2006 on record nor has pointed out the place wherefrom he was transferred to Anupgarh. The said order dated 19.07.2006 was also made within the very same two years before the date of retirement of the petitioner; and obviously, the petitioner did not raise any grievance at that time. For the petitioner not filing the relevant order of his transfer to Anupgarh and not stating the fact as to from which place he was transferred to Anupgarh, the writ petition is obviously lacking in particulars on material facts.

So far accommodation of respondent No.3 is concerned, an order made for the purpose of accommodating another cannot be pronounced as illegal or bad on that count alone as observed by the Hon'ble Supreme Court in the case of Shilpi Bose Vs. State of Bihar: AIR 1991 SC 532 that,-

> "If the competent authority issued transfer orders with a view to accommodate a public servant to avoid hardship, the same cannot and should not be interfered by the court merely because the transfer order were passed on the request of the employees concerned."

In the present case, the situation obtainable further is that in pursuance of the order dated 31.07.2007 sought to be questioned in this writ petition, the petitioner has handed over charge to the respondent No.3 as evidenced from the report Annexure-R/3/1. The petitioner has also not disputed this position. On the other hand, the petitioner has stated in his rejoinder to the reply that he has reported at the transferred place, i.e., at Kesarisinghpur, but he has not been allowed to join thereat. This grievance as suggested gives rise to an entirely different cause of action, if any, but cannot be the ground for considering the challenge to the transfer order dated 31.07.2007 in this writ petition.

The writ petition fails and is, therefore, rejected.

(DINESH MAHESHWARI), J.

Mohan/